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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 482,731	01 14 2000	Atsushi Murakami	266036	7400

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Nixon & Vanderhye, P.C.
1100 North Glebe Rd. 8th Floor
Arlington, VA 22201-4714

EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

21

DATE MAILED: 05 28 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/482,731

Applicant(s)

MURAKAMI ET AL.

Examiner

Hai Vo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 34 and 41.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4,6-15,17-21,23-27,29-33,36-40,43 and 49-51.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: The art rejections have been maintained for following reasons. The arguments that the hardness properties would not be inherently present because the secondary Ogawa reference describes the hardness of the composite 16, 18, 20 is considerably higher than the 25%-compressive hardness of 0.5N/cm² or lower as set forth in the claims are not found persuasive. Ogawa does not disclose the hardness of the rubber foam layer but rather discloses the hardness of the composite material comprising a three layer construction of a rubber foam layer and two non-foamed layers disposed on each surface of the foam layer. Applicants argue that the "foam polyethylene" or the "foam rubber" of Ogawa is harder than the material of the claimed invention since Ogawa's materials were prepared by impregnating thermosetting resin. They are not found persuasive. Ogawa reference does not exclude an embodiment where the main body portion can be made of a foam rubber without a reinforcing fiberglass. Finally, the arguments that it would be contrary to JP'865 purpose to modify the JP'865 structure are not found persuasive. Since Applicants provide no evidence to demonstrate that the rubber foam itself used in Ogawa is much softer than the polyethylene foam disclosed in the JP'865 reference, the art rejections are thus sustained.



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700